

2003 DRAFTING REQUEST**Bill**

Received: 12/16/2003

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: joe

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: mshovers

Subject: Econ. Development - bus. dev.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Badger Fund

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan	wjackson					State
	12/16/2003	12/26/2003					Tax
	jkreye						
	12/16/2003						
	mshovers						
	12/24/2003						

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Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			rschluet 12/29/2003	_____	sbasford 12/29/2003		State Tax
/2	jkreye 01/29/2004	wjackson 02/03/2004 wjackson 02/11/2004	pgreensl 02/11/2004	_____ _____ _____	lemery 02/11/2004		State Tax
/3	jkreye 02/17/2004 jkreye 02/23/2004	wjackson 02/17/2004 wjackson 02/20/2004 wjackson 02/23/2004	rschluet 02/20/2004	_____ _____ _____ _____	sbasford 02/20/2004		State Tax
/4			pgreensl 02/23/2004	_____ _____ _____	sbasford 02/23/2004 lemery 02/23/2004	lnorthro 03/01/2004	

FE Sent For:

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At
Intro.

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resubmitted
for email

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<END>

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May Contact:

Addl. Drafters: **mshovers**Subject: **Econ. Development - bus. dev.**

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	jkreye 12/16/2003	1/2 Wj 2/11					Tax
	mshovers 12/24/2003						

12/29/2003 09:54:00 AM

Page 2

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/1			rschluet	_____	sbasford		
			12/29/2003	_____	12/29/2003		

FE Sent For:

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12/16/2003 11:33:58 AM

Page 1

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1/	rmarchan	1 Wlj 12/26					
/1 MES 12/24/03							
FE Sent For:							
12 24 3 END>							

Marchant, Robert

From: Kremer, Joe
Sent: Monday, December 15, 2003 10:43 AM
To: Marchant, Robert
Cc: Champagne, Rick
Subject: Bill draft

Rob,

Below is a bill that we'd like to have drafted. It should be very similar to the "Sugar Maple Fund" that Rick Champagne recently drafted, LRB 0592/1.

Thanks,

Joe

The Badger Fund will help direct Wisconsin investment dollars into Wisconsin businesses and to expand cost-effective investment options for Wisconsin investors. All contributors to the Badger Fund will be able to take a 50% state tax deduction on the amount invested. This concept creates a fund that is open to all Wisconsin residents who wish to make investments in Wisconsin businesses.

The fund must make certain investments in this state in order to:

- promote and maintain capital retention
- promote economic stability and business continuity
- achieve job retention and creation
- maintain ownership of Wisconsin businesses by Wisconsin residents
- expand employee ownership of these businesses
- earn income for investors

Two primary categories are targeted for investment:

1. Companies with strong balance sheets seeking equity capital for expansion, modernization of equipment, or upgrading of employee skills;
2. Companies with strong balance sheets that are facing an ownership transition because the owner is reaching retirement age with no succession plan.

In the latter case, Badger Fund will serve as a friendly equity partner to management and/or employees who wish to purchase the company, but do not have sufficient personal resources to do so.

The Fund will also invest in start-up companies and in companies that are in turnaround mode, on an individual and limited basis.

To be considered eligible, companies must meet the following criteria:

1. No larger than \$75 million in total net assets;

2. A majority of employees in Wisconsin.

Both non-union and unionized businesses are eligible for investment capital.

Initial funding for the fund will come from Commerce up to the amount of a \$3 million grant, if necessary.

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504

12-23-03

2003 BILL

LRB-05924-

URAC:cmh:rs

R m m r

Dust

WANTED
MON. AM

REGEN

AN ACT to create 20.143 (1) (dm) and 560.28 of the statutes; relating to:

requiring the creation of a ~~venture capital~~ corporation to make investments in

certain businesses located in this state, providing a grant to the corporation,

~~and making an appropriation~~ ^{creating an individual income tax deduction for contributions to the corporation and}

must invest in businesses

Analysis by the Legislative Reference Bureau

This bill creates a special committee that is required to organize a business corporation to be called the Sugar Maple Fund. The corporation must make investments in certain businesses in this state in order to earn income and promote and maintain capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of these businesses by residents of this state, including employee ownership of the businesses. The corporation must also provide investment capital and other financial assistance and services to the businesses to assist them in creating, maintaining, and protecting jobs in this state.

Under the bill, the businesses in which the Sugar Maple Fund may invest are those that are headquartered in this state and have their principal business operations located in this state, are in need of venture capital and cannot obtain conventional financing, employ at least 50% of their employees in this state, and have a net worth that is not in excess of \$50,000,000.

Under the bill, the Department of Commerce must give the Sugar Maple Fund a \$3,000,000 grant, if the corporation applies for the grant, for start-up capital and

The Sugar Maple Fund must give priority to businesses that are economically viable and that are seeking equity capital for expansion, modernization of equipment, or upgrading of employee skills, or facing an ownership transition due to an owner who is retiring with no business ownership succession plan.

have a majority of their employees

net assets that are

\$75,000,000

BILL*or agree to do*

reasonable administrative expenses ~~and~~ as a condition of receiving the grant, the corporation must do all of the following:

1. Establish investment policies and criteria with respect to the promotion of employee ownership and employee participation in the governance and management of the businesses in which the corporation invests; the creation, retention, and protection of employment in this state; and employment practices, workplace safety, environmental suitability, and other matters considered appropriate by the corporation.

2. Invest ^{not} less than 60% ^{9 percent} of its investment assets in businesses, either in equity interests of the businesses or in debt obligations of the businesses.

3. ~~May~~ ^{Permit} invest more than 20% of its investment assets in any one business.

4. ~~Not prohibit~~ investment in businesses whose employees are not represented by a labor organization. *Provide no assistance to*

5. ~~Not assist~~ employees of a business who wish to join a labor organization.

6. Use its best efforts to ensure that a majority of its investment assets directly or indirectly promote employee ownership of businesses in which it invests or employee participation in the governance and management of the businesses in which it invests.

7. Maintain a reserve fund that contains at least 15% ^{9 percent} of its investment assets.

Finally, the bill requires all employers in this state, once certain conditions are met, to set up a payroll deduction plan in which an employee may have the employer withhold a designated part of his or her salary to be used for the purchase of shares issued by the Sugar Maple Fund.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.143 (1) (dm) of the statutes is created to read:

20.143 (1) (dm) *Grant to Sugar Maple Fund*. A sum sufficient not to exceed \$3,000,000 for the purpose of paying the grant specified in s. 560.29 ⁹ (4). *Badger*

SECTION 2. 560.29 ²⁹ of the statutes is created to read:

560.29 *Sugar Maple Fund*. (1) In this section: *Badger*

(a) "Committee" means the special committee created under sub. (2).

(b) "Corporation" means the Sugar Maple Fund. *Badger*

BILL

1 (c) "Employer" means a person engaging in any activity, enterprise, or business
2 in this state employing any individuals on a permanent basis. "Employer" includes
3 the state and any office, department, independent agency, authority, institution,
4 association, society, or other body in state government created or authorized to be
5 created by the constitution or any law, including the legislature and the courts.

6 (d) "Labor organization" has the meaning given in s. 5.02 (8m). ✓

7 (e) "Qualified business" means a business that satisfies all of the following:

8 1. The business is headquartered in this state and its principal business
9 operations are located in this state.

10 2. The business is in need of venture capital and is unable to obtain
11 conventional financing, as determined by the corporation.

12 1. The business employs at least ^{51 percent} 50% of its employees in this state.

13 2. The business has a net ^{assets} ~~worth~~ that ~~is not in excess of \$50,000,000~~ ^{do not exceed \$75,000,000}

14 (2) (a) There is created a special committee, consisting of the following
15 members who shall be nominated by the governor, and with the advice and consent
16 of the senate appointed, for terms ending on the day on which the committee ceases
17 to exist:

18 1. Two members who represent labor organizations.

19 2. Two members who represent pension funds of labor organizations.

20 3. One member who has experience in the field of economic development.

21 4. Two members who represent the business or financial communities.

22 5. One member who has experience in the field of environmental protection.

23 6. One member who represents the public.

BILL

(b) The governor shall seek to appoint members from different regions of the state who have demonstrated an ability to work in a cooperative and collaborative manner with individuals of diverse interests.

(c) All members of the committee shall be residents of this state at the time of appointment and at the time of performing any duties required of the committee.

(d) Five members shall constitute a quorum for the purpose of performing any duties required of the committee.

(e) The committee may request the services of any state agency to assist the committee in performing its duties.

(f) The committee shall submit any recommendations for additional legislation to further the purposes of promoting and maintaining capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of qualified businesses by residents of this state, including employee ownership of qualified businesses, to the governor and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(g) After the committee has organized the corporation and submitted any recommendations under par. (f), the committee ceases to exist.

(3) (a) The committee shall organize a corporation under ch. 180 to be called the ~~Sugar Maple~~ ^{Badger} Fund. The corporation shall make investments in qualified businesses for the purpose^s of earning income and promoting and maintaining capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of qualified businesses by residents of this state, including employee ownership of qualified businesses. The corporation shall also provide investment capital and other financial assistance and services to qualified

No ff The corporation shall give preference to qualified businesses that are economically viable and that are seeking equity capital for expansion, modernization of equipment or upgrading of employee skills or facing an ownership transition due to an owner who is retiring without an ownership succession plan.

BILL

1 businesses to assist qualified businesses in creating, maintaining, and protecting
2 jobs in this state.

3 (b) 1. The committee shall designate in the articles of incorporation the initial
4 members of the board of directors of the corporation.

5 2. Unless otherwise prohibited by law, the committee shall include in the
6 articles of incorporation, with respect to the investment policies, shareholder classes
7 and provisions, and shareholder voting rights of the corporation, investment policies,
8 shareholder classes and provisions, and shareholder voting rights that are similar
9 to those of the Crocus Investment Fund of Manitoba, Canada.

10 (4) From the appropriation under s. 20.143 (1) (dm),[✓] the department shall
11 make a onetime[✓] grant of \$3,000,000 to the corporation, if the corporation applies for
12 the grant, for start-up capital and reasonable administrative expenses of the
13 corporation.[✓]

14 (5) As a condition of receiving the grant under sub. (4), the corporation shall
15 do all of the following:

16 (a) Establish investment policies and criteria with respect to all of the
17 following:

18 1. The promotion of employee ownership and employee participation in the
19 governance and management of qualified businesses.

20 2. The creation, retention, and protection of employment in this state.

21 3. Employment practices, workplace safety, environmental suitability, and
22 other matters considered appropriate by the corporation.

23 (b) Invest not less than 60^{8 percent}% of its investment assets in qualified businesses,
24 either in equity interests of the qualified businesses or in debt obligations of the
25 qualified businesses.

BILL

1 (c) ~~Not~~ ^{not} invest more than 20% ^{9 percent} of its investment assets in any one qualified
2 business.

3 (d) ~~Not prohibit~~ ^{Permit} investment in qualified businesses whose employees are not
4 represented by a labor organization. ^{Provide no assistance to}

5 (e) ~~Not assist~~ employees of a qualified business in joining or forming a labor
6 organization.

7 (f) Use its best efforts to ensure that a majority of its investment assets directly
8 or indirectly promote employee ownership of qualified businesses or employee
9 participation in the governance and management of the qualified businesses.

10 (g) Maintain a reserve fund that contains at least 15% ^{9 percent} of its investment assets.

11 (6) (a) 1. If an employer has 250 or more employees and if at least 50 of the
12 employees make a request to the employer in writing that the employer establish a
13 payroll deduction plan in which an employee may have the employer withhold a
14 designated part of his or her salary to be used for the purchase of shares issued by
15 the corporation, the employer shall establish the payroll deduction plan.

16 2. If an employer has fewer than 250 employees and if at least 20% of the
17 employees make a request to the employer in writing that the employer establish a
18 payroll deduction plan in which an employee may have the employer withhold a
19 designated part of his or her salary to be used for the purchase of shares issued by
20 the corporation, the employer shall establish the payroll deduction plan.

21 (b) If an employer has established a payroll deduction plan under par. (a), the
22 employer shall remit the amounts to the corporation for the purchase of shares of the
23 corporation, together with a statement specifying the amounts deducted for each
24 employee, the employee's name and address, and any other information requested
25 by the corporation that is necessary to facilitate the transaction.

BILL

1 (7) The assets and liabilities of the corporation shall be separate from all other
2 assets and liabilities of the state, of all political subdivisions of the state, and of the
3 department. Neither the state, any political subdivision of the state, nor the
4 department guarantees any obligation of or has any obligation to the corporation.
5 Neither the state, any political subdivision of the state, nor the department is liable
6 for any debt or liability of the corporation.

7 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3890/?insMES
RJM&MES.....

INS ANL

This bill ^calso creates an individual income tax deduction for 50 percent of any amount that is contributed to the Badger Fund corporation. The deduction may be claimed for a taxable year that begins after December 31, 2003. ✓

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

INS 2-3

SECTION ^{*} 71.05 (6) (b) 34. ✓ of the statutes is created to read:

71.05 (6) (b) 34. For taxable years beginning after December 31, 2003, 50 ✓ percent of any amount that is contributed to the Badger Fund corporation under s. 560.2⁹.
+ 560.2~~9~~.

D L W T E

Representative Kreuser:

4 Please review the attached draft carefully.

I was aware how closely the draft
should resemble LRB 05920. If you

have any questions or desire any changes,
please feel free to call.

(Rom)

4 Do you want to limit the
maximum amount of a deduction
that may be claimed?

AMZf

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3890/1dn
RJM&MES:wlj:rs

December 29, 2003

Representative Kreuser:

Please review the attached draft carefully. I was unsure how closely the draft should resemble LRB-0592. If you have any questions or desire any changes, please feel free to call.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Do you want to limit the maximum amount of a deduction that may be claimed?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Modifications to the Badger Fund, LRB 3890/1

Management of the fund by a group within SWIB

No limit on size of business that can be invested in (no asset limitation)

Funding provided by GPR, not to exceed \$500,000 — *start up costs*

\$15M-out

*grant has
been removed*

Remove mention of any conditions of a grant, there will no longer be a grant, but rather there will be goals, they are:

— no mandatory requirement

Tone down the requirement of employee ownership to say it is a goal of the fund to assist employees who would like to purchase their business, but they do not need to establish investment policies and criteria.

Remove all references to permitting investments in businesses who do not have labor organizations.

Remove all references to the fund not being able to assist employees who wish to join a labor organization. [This would be out of the scope of the fund, whose main overall goal is to invest in Wisconsin businesses.]

— buy into fund by purchasing stock

— include a protocol for buying stock

— language forwarded to me.

WI Assembly Democratic Economic Development Team:
Badger Fund
January 2004

The Badger Fund will help direct Wisconsin investment dollars into Wisconsin businesses while offering a cost-effective investment option for Wisconsin investors who wish to invest their money back in Wisconsin. All contributors to the Badger Fund will be able to take a 50% state tax deduction on the amount invested. This concept creates a fund that is open to anyone, but which gives an added incentive to those who pay Wisconsin state taxes.

The fund will be managed by a group located within SWIB. Aside from the initial start-up costs, which will be paid for by an appropriation from GPR not to be greater than \$500,000, fund costs will be paid for by the fund.

Fund Goals:

- promote and maintain capital retention
- promote economic stability and business continuity
- achieve job retention and creation
- maintain ownership of Wisconsin businesses by Wisconsin residents
- when possible, expand employee ownership of these businesses
- earn income for investors

Two primary categories are targeted for investment:

1. Companies with strong balance sheets seeking equity capital for expansion, modernization of equipment, or upgrading of employee skills;
2. Companies with strong balance sheets that are facing an ownership transition because the owner is reaching retirement age with no succession plan.

In the latter case, Badger Fund will serve as a friendly equity partner to management and/or employees who wish to purchase the company, but do not have sufficient personal resources to do so.

The Fund will also invest in start-up companies and in companies that are in turnaround mode, on an individual and limited basis.

To be considered eligible, companies have a majority of employees in Wisconsin.

Kreye, Joseph

From: Kremer, Joe
Sent: Friday, January 16, 2004 3:46 PM
To: Kreye, Joseph
Subject: Badger Fund

Joe,

Attached are the 3 1/2 pages of write-up on valuation. We might be able to get away with just saying the stock will be valued using the based on the aggregate value of all holdings divided by total outstanding shares.

The holdings will be valued using one of the three methods:

1. Holdings that are of publicly traded companies, so long as a active market exists for them.
2. Holdings that are private companies will be valued once a year, unless SWIB determines that something has occurred with the company that would cause a change in their valuation.
3. Holdings that are debt will be valued as debt should be, unless it is debt owed by an entity that may not be able to make all payments.

Obviously there needs some legalese and more intelligent words put around it, but I don't think you'd need to go into as much detail as the prospectus has.

Please feel free to call with questions or comments.

Have a good weekend,

Joe



Pages from Crocus
prospectus.p...

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504

CEO Roundtable. The meetings constitute a forum in which the chief executive officers may discuss issues of common interest and address common concerns, and has also served to challenge the chief executive officers' understanding of employee ownership and participation by exploring new models of management, examining 'best practices' in employee relations and providing education aimed at enhancing the implementation of effective employee ownership and participation systems within their organizations. A working group consisting of representatives of investee companies with employee ownership structures created a manual which compares and contrasts different employee ownership models. One of the regular meetings is attended by companies in which the Fund currently has no investment. These companies have either exhibited innovative participatory management practices in their workplaces or have expressed an interest in learning about them. As part of The CEO Roundtable, the companies in which the Fund has invested are also invited to participate in an annual trade show.

The Fund, in conjunction with the University of Manitoba's Continuing Education Department, is also in the third year of offering a course in participatory management for representatives of its investee companies and others.

4.09 Ceasing to be an Eligible Investment.

An investment in an Eligible Investment must only qualify as an Eligible Investment at the time the Fund makes the investment, and the Fund may continue to hold the investment as an Eligible Investment even if the investment would not be an Eligible Investment if it was made at some later time. However, the Crocus Act provides that where an investment that, if made by the Fund at a later time, would not be an Eligible Investment because of one or more transactions or events in a series of transactions or events that included the Fund's acquisition of the investment and, in the opinion of the Minister, the Fund made the investment contrary to the object and spirit of the Crocus Act, the Minister may, within two years of the date that the series of transactions or events came to the Minister's attention, declare the investment be an Ineligible Investment and thus not an Eligible Investment. Prior to making such a declaration, the Minister must allow the Fund thirty days to object to such a declaration being made. Such a declaration does not require the investment to be disposed of by the Fund, but will reduce the assets of the Fund which the Fund may treat as Eligible Investments.

5. VALUATION

5.01 Introduction.

The largest source of the Fund's capital has and is expected to continue to come from the issue of Common Shares. The Fund also will be the principal purchaser of issued Common Shares. Since the Fund will be both selling and redeeming Common Shares on a regular basis, the manner in which shares are sold and redeemed is an important aspect of the Fund's business operation. It is also important that the price at which the Common Shares are sold and redeemed is a fair price for both the Fund and its shareholders.

The Fund is required to issue Common Shares and to redeem Common Shares pursuant to Permitted Redemptions at the Net Asset Value Per Common Share determined as of the relevant Valuation Date. Generally, the Net Asset Value Per Common Share at any particular Valuation Date will be the quotient obtained by dividing the net asset value of the Fund (less any amount that would be paid in priority to the other classes of shares on a liquidation, dissolution or winding-up) by the aggregate number of Common Shares and Class I Shares other than Series Three Shares outstanding at such time.⁹ Due to the nature of the Fund's Investment Assets, however, the Net Asset Value Per Common Share will be an approximation that is subject to uncertainty. See Section 15.09 "Risk Factors – Valuations".

To ensure the consistent application of a fair mechanism for determining the Net Asset Value Per Common Share, the Fund has adopted procedures for determining the Net Asset Value Per Common Share and has adopted the Valuation Policies with respect to the valuation of its Investment Assets that are sufficiently flexible to allow any unusual circumstances to be taken into account by the Board of Directors.

5.02 Valuation of Fund Assets.

General. The net asset value of the Fund generally represents an amount equal to the difference between the value of the assets of the Fund and the amount of the debts of the Fund. The net asset value of the Fund will be

⁹ Subject to any future granting of priority to any series of Class I Shares over the Common Shares on a liquidation, dissolution or winding-up, whereupon the stated capital of that series would also be deducted.

determined as at each Valuation Date. For this purpose, the value of the Fund's assets generally will be the aggregate of:

- in respect of Investment Assets for which a published market value exists, except in certain circumstances discussed below, the published market value as at the relevant Valuation Date;
- in respect of Investment Assets for which no published market value exists, the net realizable value of such Investment Assets determined in accordance with the Crocus Act and the Valuation Policies (which, in the first twelve months following the acquisition of an Investment Asset is the cost of such Investment Asset to the Fund, subject to the requirement to revalue such asset in certain circumstances as discussed below); and
- in respect of any asset that is not an Investment Asset, the cost of such asset less any accumulated depreciation or amortization applicable to it as determined by the Board of Directors in consultation with the auditors of the Fund.

In each case where an Investment Asset is to be valued at its net realizable value determined in accordance with the Crocus Act and the Valuation Policies, net realizable value means the amount which would be received by the Fund from the sale of the Investment Asset on an orderly basis over a reasonable period of time in an arm's length sale between the Fund and an informed, knowledgeable and willing purchaser, acting without restraint.

Valuation of Investment Assets for Which a Published Market Exists. The value of the Investment Assets for which there exists a published market value is based on the quoted prices in that market on the relevant Valuation Date. For this purpose, a published market value means the value of an Investment Asset as published in a publication generally available to persons whose business is the purchase and sale of investments as being the last price at which the Investment Asset was traded in a recognized market for the purchase and sale of such an Investment Asset on the day on which such published market value is being determined. However, if the Board of Directors is of the opinion that an Investment Asset could not readily be disposed of through such market at the applicable Valuation Date, because, for example, the public float is small relative to the Fund's holdings, such Investment Asset may be valued by using the net realizable value of such Investment Asset. Also, if it was the intention of the Fund at the time it acquired an Investment Asset to hold it as a fixed income security until maturity, then such Investment Asset may be valued at cost, adjusted to reflect the amortized portion of the discount or premium, as the case may be.

In respect of Investment Assets which are thinly or intermittently traded such that there is price volatility, the Fund has determined that the daily stock price on the Valuation Date is not a reliable indication of value given that the Investment Assets would likely not be able to be disposed of at that time for that price. The Fund has accordingly adopted a protocol in such circumstances to value each of such Investment Assets using the weighted average of the closing prices and closing volumes of such Investment Asset in the previous two month period. Such protocol is derived from and is consistent with the Association for Investment Management and Research (AIMR) Performance Presentation Standards Handbook.

Valuation of Investment Assets for Which No Published Market Exists. An Investment Asset for which there is no published market value will be valued at its cost for the first twelve months following the date such Investment Asset was acquired by the Fund. The Board of Directors will require a revaluation to be made of an Investment Asset within this twelve month period if it is of the opinion that there has been a change which may have a material effect on the value of the Investment Asset. After the initial twelve month period, such Investment Asset will be valued at its net realizable value, as determined by the Board of Directors annually in accordance with the Crocus Act and the Valuation Policies.

In order to assist the Board of Directors in valuing Investment Assets for which no published market exists, or for which a published market exists but the Board of Directors has determined that such Investment Assets could not be readily disposed of through such market at the applicable Valuation Date, it will obtain a report by such qualified person as the Board of Directors has approved, which may be the staff valuation committee, giving an opinion of the fair value of such Investment Assets as of the respective anniversary dates of the acquisition of such Investment Assets or, if approved by the Board of Directors, as of the financial year end of each respective investee company. Where on any Valuation Date the Board of Directors determines that there has been a change which may have a material effect on the value of any Investment Asset, it shall cause a revaluation of any such Investment Asset.

In determining the net realizable values of Investment Assets, the Board of Directors will not rely solely on the reports that it obtains. The Board of Directors also will consider any other bona fide arm's length transactions

respecting an Investment Asset which, in the opinion of the Board of Directors, provides a valid indication of the net realizable value of the Investment Asset, and such other factors as the Valuation Policies may provide. These other factors include, but are not limited to, the following:

- (a) general, economic and industry factors;
- (b) the liquidity of the entity which has issued an Investment Asset or the liquidity of an Investment Asset in the market applicable thereto;
- (c) the tangible assets supporting the Investment Asset;
- (d) the provisions of any agreement entered into by the Fund with respect to an Investment Asset;
- (e) any restrictions or conditions imposed by any law, regulation or policy of any governmental, administrative or regulatory authority with respect to an Investment Asset or with respect to an entity which has issued an Investment Asset; and
- (f) such other factors as the Board of Directors, in its discretion, may consider appropriate from time to time.

Subject to certain exceptions as set out in the Valuation Policies, the net realizable value of an Investment Asset that is a debt instrument that does not have a published market value or that is not required to be valued at its published market value shall be its unamortized principal amount at the relevant Valuation Date. The unamortized principal amount will not be used, however, where there is doubt as to the ability of the debtor to make payments required under the debt instrument as they come due, in which case the debt instrument will be valued at the aggregate of all amounts that at the relevant Valuation Date the Fund can reasonably expect to receive in respect of the principal amount of the debt instrument, less any expenses that are reasonably expected to be incurred by the Fund in respect thereof.

The process of valuing Investment Assets for which no published market exists inevitably will be based on uncertainties and the resulting values may differ from values that would have been used had a ready market existed for such Investment Assets. In all cases, the Board of Directors will be governed by the requirement that the valuation must result in the determination of a Net Asset Value Per Share that is a fair approximation.

The Valuation Policies provide that the Board of Directors may cause a qualified person, which may be the auditor of the Fund, to review from time to time as the Board of Directors may deem appropriate the methodologies used by the Fund in valuing its Investment Assets to ensure that the Fund has appropriate systems in place to properly value its Investment Assets in the manner contemplated by the Valuation Policies.

In the course of preparing its report on the Fund's annual financial statements, the Fund's auditors, PricewaterhouseCoopers LLP, audit the financial statements in accordance with generally accepted auditing standards and examine available information to provide reasonable assurance that the financial statements taken as a whole are prepared and presented in accordance with generally accepted accounting principles. The Fund has implemented internal controls and systems aimed at valuing its Investment Assets in a manner contemplated by the Valuation Policies. The auditors examine those internal controls and systems relevant in forming their audit opinion on the financial statements of the Fund.

Staff Valuation Committee. The staff valuation committee is responsible for managing the valuation of the Fund's Investment Assets, monitoring such values, and, where appropriate, conducting valuations, all in accordance with the Crocus Act and the Valuation Policies. More generally, the staff valuation committee is responsible for:

- recommending to the Board of Directors the qualified person to provide an opinion as to the fair value of any particular Investment Asset;
- engaging and working with external consultants, such as chartered business valuers, to obtain an opinion as to the fair value of any particular Investment Asset;
- where approved by the Board of Directors, determining the fair value of an Investment Asset and obtaining a concurrence report from an independent valuator with respect to the same;
- submitting recommendations to the Board of Directors on specific valuations of Investment Assets; and
- monitoring Investment Assets regularly to determine whether a change has occurred which may have a material affect on the value of an Investment Asset which would require a revaluation of such Investment Asset.

The staff valuation committee is co-chaired by Karen Hallson, CGA, CBV and Geoffrey Mwangi, MBA, CPA, CBV (registered student).

5.03 Valuation of Common Shares.

The fair value of the Common Shares will be determined in accordance with the Crocus Act and the Valuation Policies. Losses incurred by the Fund will reduce the value of the issued and outstanding shares of the Fund, including Common Shares. In addition, the Class G Shares, Class L Shares and the Series Three Shares have a priority over the Common Shares to the assets of the Fund on a liquidation, dissolution or winding-up and these priorities and the amounts payable to the Class L Shareholder and the Series Three Shareholders, if any, may have an impact on the value of the Fund's assets in determining the value of the Common Shares. See Sections 7.03 to 7.05 – Description of Class G, Class L and Class I Shares.

5.04 Calculation of Net Asset Value Per Common Share.

The Net Asset Value Per Common Share on each Valuation Date will be the fair value of a Common Share determined in accordance with the Crocus Act and the Valuation Policies. To assist in determining the fair value of a Common Share at a Valuation Date, the Board of Directors will have an independent qualified person (the "valuator") prepare a report setting out an opinion as to the manner in which the fair value of a Common Share should be calculated by the Fund's internal accountants as at such date. Presently, the valuator retained for this purpose is KPMG LLP. Such report is to be prepared at each Valuation Date, unless the Board of Directors determines that since the preceding Valuation Date there has been no change in the assets or liabilities of the Fund which could have a material effect on the manner of calculating the fair value of a Common Share, in which case the preparation of the report may be dispensed with for such Valuation Date and the calculation determining the value of the Common Shares as at such Valuation Date shall be done by the internal accountants of the Fund in accordance with the previous report.

Generally, the valuator retained by the Fund is to formulate an opinion as to the manner in which the Net Asset Value Per Common Share as at any Valuation Date is to be calculated based upon the liquidation value of the Common Shares as at that Valuation Date, assuming that the Investment Assets have the value determined in accordance with the Crocus Act and the Valuation Policies as at that Valuation Date, and that the value of each asset that is not an Investment Asset is valued at its cost less any depreciation or amortization applicable thereto as determined by the Board of Directors in consultation with the auditors of the Fund. Assets that are not Investment Assets will include the unamortized amounts of all capitalized expenses of the Fund.

The amount determined as the Net Asset Value Per Common Share will differ from the amount that would actually be received by a holder of Common Shares had the Fund actually been liquidated, dissolved or wound-up at such date. This difference arises from the fact that the amount actually received on the sale of the assets may differ from the values attributed to those assets for the purposes of calculating the Net Asset Value Per Common Share. The calculation of Net Asset Value Per Common Share will not include expenses which would be incurred by the Fund in connection with an actual sale and distribution of assets, and the unamortized balance of capitalized expenses, if any, included in calculating the Net Asset Value Per Common Share would have no value on a liquidation of the Fund.

The Fund publishes the Net Asset Value Per Common Share as at each Valuation Date in the *Winnipeg Free Press*, the *Winnipeg Sun*, *The Globe and Mail*, *The National Post* and various electronic reporting media such as BellCharts, GlobeHySales, PALTrak and internet GlobeFund.

6. MANAGEMENT

6.01 Directors and Officers.

As discussed in Section 3.06 "Crocus Investment Fund – Control of the Fund", the responsibility for the management of the business and affairs of the Fund rests with the Board of Directors. Among other things, this includes the responsibility for selecting and evaluating management of the Fund, establishing operational policies, including the Investment Policies and the Valuation Policies, and approving the acquisition and divestiture of Eligible Investments. The Board of Directors ultimately is responsible for the Fund's compliance with all legislation applicable to the Fund.

2003 BILL

m 1-29-04

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REGEN

1 AN ACT *to create* 20.143 (1) (dm), 71.05 (6) (b) 34. and 560.29 of the statutes;
2 **relating to:** requiring the creation of a corporation to make investments in
3 certain businesses located in this state, providing a grant to the corporation,
4 creating an individual income tax deduction for contributions to the
5 corporation, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a special committee that is required to organize a business corporation to be called the Badger Fund. The corporation must make investments in certain businesses in this state to earn income and promote and maintain capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of these businesses by residents of this state, including employee ownership of the businesses. The corporation must also provide investment capital and other financial assistance and services to the businesses to assist them in creating, maintaining, and protecting jobs in this state.

Under the bill, the Badger Fund must invest in businesses that have a majority of their employees in this state ~~and that have net assets that are not in excess of \$75,000,000.~~ The Badger Fund must give priority to businesses that are economically viable and that are seeking equity capital for expansion, modernization of equipment, or upgrading the employee skills or facing an ownership transition due to an owner who is retiring with no business ownership succession plan.

Under the bill, the Department of Commerce must give the Badger Fund a \$3,000,000 grant, if the corporation applies for the grant, for start-up capital and

BILL*Establish goals for using*

reasonable administrative expenses. As a condition of receiving the grant, the corporation must do or agree to do all of the following:

1. Establish investment policies and criteria with respect to ~~the promotion of employee ownership and employee participation in the governance and management of the businesses in which the corporation invests~~ the creation, retention, and protection of employment in this state, and employment practices, workplace safety, environmental suitability, and other matters considered appropriate by the corporation.

2. Invest not less than 60 percent of its investment assets in businesses, either in equity interests of the businesses or in debt obligations of the businesses.

3. Invest not more than 20 percent of its investment assets in any one business.

4. ~~Permit investment in businesses whose employees are not represented by a labor organization.~~

5. ~~Provide no assistance to employees of a business who wish to join a labor organization.~~

6. ~~Use its best efforts to ensure that a majority of its investment assets directly or indirectly promote employee ownership of businesses in which it invests or employee participation in the governance and management of the businesses in which it invests.~~

7. Maintain a reserve fund that contains at least 15 percent of its investment assets.

The bill creates an individual income tax deduction for 50 percent of any amount that is contributed to the Badger Fund corporation. The deduction may be claimed for a taxable year that begins after December 31, 2003.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.143 (1) (dm) of the statutes is created to read:

20.143 (1) (dm) *Grant to Badger Fund.* A sum sufficient not to exceed \$3,000,000 for the purpose of paying the grant specified in s. 560.29 (4).

SECTION 2. 71.05 (6) (b) 34. of the statutes is created to read:

71.05 (6) (b) 34. For taxable years beginning after December 31, 2003, 50 percent of any amount that is contributed to the Badger Fund corporation under s. 560.29.

BILL

SECTION 3. 560.29 of the statutes is created to read:

560.29 Badger Fund. (1) In this section:

(a) "Committee" means the special committee created under sub. (2).

(b) "Corporation" means the Badger Fund.

(c) "Employer" means a person engaging in any activity, enterprise, or business in this state employing any individuals on a permanent basis. "Employer" includes the state and any office, department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts.

(d) "Labor organization" has the meaning given in s. 5.02 (8m).

(e) "Qualified business" means a business that ~~satisfies all of the following:~~

~~1. The business employs at least 51 percent of its employees in this state.~~

~~2. The business has net assets that do not exceed \$75,000,000.~~

(2) (a) There is created a special committee, consisting of the following members who shall be nominated by the governor, and with the advice and consent of the senate appointed, for terms ending on the day on which the committee ceases to exist:

1. Two members who represent labor organizations.

2. Two members who represent pension funds of labor organizations.

3. One member who has experience in the field of economic development.

4. Two members who represent the business or financial communities.

5. One member who has experience in the field of environmental protection.

6. One member who represents the public.

BILL

1 (b) The governor shall seek to appoint members from different regions of the
2 state who have demonstrated an ability to work in a cooperative and collaborative
3 manner with individuals of diverse interests.

4 (c) All members of the committee shall be residents of this state at the time of
5 appointment and at the time of performing any duties required of the committee.

6 (d) Five members shall constitute a quorum for the purpose of performing any
7 duties required of the committee.

8 (e) The committee may request the services of any state agency to assist the
9 committee in performing its duties.

10 (f) The committee shall submit any recommendations for additional legislation
11 to further the purposes of promoting and maintaining capital retention and economic
12 stability in this state, business continuity, job retention and creation, and the
13 ownership of qualified businesses by residents of this state, including employee
14 ownership of qualified businesses, to the governor and to the chief clerk of each house
15 of the legislature, for distribution to the legislature under s. 13.172 (2).

16 (g) After the committee has organized the corporation and submitted any
17 recommendations under par. (f), the committee ceases to exist.

18 (3) (a) The committee shall organize a corporation under ch. 180 to be called
19 the Badger Fund. The corporation shall make investments in qualified businesses
20 for the purposes of earning income and promoting and maintaining capital retention
21 and economic stability in this state, business continuity, job retention and creation,
22 and the ownership of qualified businesses by residents of this state, including
23 employee ownership of qualified businesses. The corporation shall give preference
24 to qualified businesses that are economically viable and that are seeking equity
25 capital for expansion, modernization of equipment, or upgrading of employee skills

BILL

1 or facing an ownership transition due to an owner who is retiring without an
2 ownership succession plan. The corporation shall also provide investment capital
3 and other financial assistance and services to qualified businesses to assist qualified
4 businesses in creating, maintaining, and protecting jobs in this state.

5 (b) 1. The committee shall designate in the articles of incorporation the initial
6 members of the board of directors of the corporation.

7 2. Unless otherwise prohibited by law, the committee shall include in the
8 articles of incorporation, with respect to the investment policies, ^{asset valuations} shareholder classes
9 and provisions, and shareholder voting rights of the corporation, investment policies,
10 shareholder classes and provisions, and shareholder voting rights that are similar
11 to those of the Crocus Investment Fund of Manitoba, Canada.

12 (4) From the appropriation under s. 20.143 (1) (dm), the department shall
13 make a onetime grant of \$3,000,000 to the corporation, if the corporation applies for
14 the grant, for start-up capital and reasonable administrative expenses of the
15 corporation.

16 (5) As a condition of receiving the grant under sub. (4), the corporation shall
17 do all of the following:

18 (a) Establish investment policies and criteria with respect to all of the
19 following:

20 1. The promotion of employee ownership and employee participation in the
21 governance and management of qualified businesses.

22 2. The creation, retention, and protection of employment in this state.

23 3. Employment practices, workplace safety, environmental suitability, and
24 other matters considered appropriate by the corporation.

BILL

1 (b) Invest not less than 60 percent of its investment assets in qualified
2 businesses, either in equity interests of the qualified businesses or in debt
3 obligations of the qualified businesses.

4 (c) Invest not more than 20 percent of its investment assets in any one qualified
5 business.

6 ~~(d) Permit investment in qualified businesses whose employees are not~~
7 ~~represented by a labor organization.~~

8 ~~(e) Provide no assistance to employees of a qualified business in joining or~~
9 ~~forming a labor organization.~~

10 (f) Use its best efforts to ensure that a majority of its investment assets directly
11 or indirectly promote employee ownership of qualified businesses or employee
12 participation in the governance and management of the qualified businesses.

13 (g) Maintain a reserve fund that contains at least 15 percent of its investment
14 assets.

15 (7) The assets and liabilities of the corporation shall be separate from all other
16 assets and liabilities of the state, of all political subdivisions of the state, and of the
17 department. Neither the state, any political subdivision of the state, nor the
18 department guarantees any obligation of or has any obligation to the corporation.
19 Neither the state, any political subdivision of the state, nor the department is liable
20 for any debt or liability of the corporation.

21 (END)

Representative Kreuser

¶ 1. This draft eliminates the \$75,000,000 maximum
asset limitations related to ^{the} eligible business in
which the corporation may ^{invest} invest.

¶ 2. This draft eliminates the grant conditions that refer
to labor organizations.

¶ 3. This draft eliminates the grant condition that ^{requires} requires
the corporation to establish policies and criteria with
respect to promoting employee ownership and participation
in the ^{businesses} businesses in which the corporation ^{invests} invests.

¶ 4. Finally, rather than attempt to incorporate a rewording
of the ^{rather complex} asset valuation methods used by the Group
Investment Fund, this draft requires the committee
to include asset valuations similar to those of the Group
Investment Fund in the articles of incorporation see 56029
(3)(b) ~~zone~~ created by the bill.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3890/2dn
JK:wlj:pg

February 11, 2004

Representative Kreuser:

1. This draft eliminates the \$75,000,000 maximum asset limitations related to the eligible businesses in which the corporation may invest.
2. This draft eliminates the grant conditions that refer to "labor organizations."
3. This draft eliminates the grant condition that requires the corporation to establish policies and criteria with respect to promoting employee ownership and participation in the businesses in which the corporation invests.
4. Finally, rather than attempt to incorporate a rewording of the rather complex asset valuation methods used by the Crocus Investment Fund, this draft requires the committee to include asset valuations similar to those of the Crocus Investment Fund in the articles of incorporation. See s. 560.29 (3) (b) 2., as created by the bill.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

2-17-04

Joe Krueger

SS04

1) define pool of eligible companies

— must use the 5190 criteria and
established criteria

(consistent with p. 4 L13+)

2) report on condition of receiving grant

3) the start-up costs — a grant to be repaid

▷ not wanting the corp. to be forced to sell to pay

off start-up costs

▷ look at repay options

if a loan, with
interest?
how long to repay

4) maintaining the 5190 employees

5) "economically viable" — delete

~~6) trying to have a committee that is representative~~

6) Committee between initial board of directors

Badger Fund, Mods part 2

- not need to certify (51% employment requirement)*
- Can to certify its investments?*
- why even have the corporation then?*
- could not not to give too much state involvement*
- Commerce would certify eligible companies--lets the state retain some level of control and will ensure the fund doesn't make improper investments (can this include an appeals process if a company feels that it's been slighted?)
 - ✓ - Commerce will review the fund yearly through an annual report the company must submit, detailing that year's investments and giving an update on all investments. *to*
 - * - Have the fund repay the \$3M in start-up capital over an extended period of time. (How did Edvest do it?) — *514.64% → a transfer from the tuition trust fund a college savings trust fund to the general fund (14.65(1))*
 - ✓ - Provide for accountability on the part of the invested business to keep at least 51% of their employees in the state. (Current Capco/Wiscap legislation should have good wording.) *already out of definition of profitable business*
 - ✓ - Redefine "economically viable" to read ~established businesses looking for equity capital as well as, from time to time, new start-up businesses. (Any thoughts?)
- and then some small stuff:
- ✓ - Type of people on the board: *on board or its committee? board is problematic*
 - Governor, Sec of Commerce, Head of SWIB, and others (thoughts?)
 - ✓ - Conflict of interest provision for the board — *of its corporation*
 - ✓ - Add in a timeline as to when this will be set-up, say by Jan 1 of the next year (so right now it would be Jan 1, 2005).



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3890/2
JK&MES:cmh&wlj:pg

3

RMR

2003 BILL

m 2-17-04

due Fri.
2-20-04

Regen

1 AN ACT ~~to create~~ 20.143 (1) (dm), 71.05 (6) (b) 34. and 560.29 of the statutes;
2 **relating to:** requiring the creation of a corporation to make investments in
3 certain businesses located in this state, providing a grant to the corporation,
4 creating an individual income tax deduction for contributions to the
5 corporation, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a special committee that is required to organize a business corporation to be called the Badger Fund. The corporation must make investments in certain businesses in this state to earn income and promote and maintain capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of these businesses by residents of this state, including employee ownership of the businesses. The corporation must also provide investment capital and other financial assistance and services to the businesses to assist them in creating, maintaining, and protecting jobs in this state.

Under the bill, the Badger Fund must invest in businesses that have a majority of their employees in this state. The Badger Fund must give priority to businesses that are ~~economically viable and that are~~ seeking equity capital for expansion, modernization of equipment, or upgrading the employee skills or facing an ownership transition due to an owner who is retiring with no business ownership succession plan.

Under the bill, the Department of Commerce ^(department) must give the Badger Fund a \$3,000,000 grant, if the corporation applies for the grant, for start-up capital and

BILL

reasonable administrative expenses. As a condition of receiving the grant, the corporation must do or agree to do all of the following:

1. Establish investment policies and criteria with respect to the creation, retention, and protection of employment in this state and employment practices, workplace safety, environmental suitability, and other matters considered appropriate by the corporation.

2. Invest not less than 60 percent of its investment assets in businesses, either in equity interests of the businesses or in debt obligations of the businesses.

3. Invest not more than 20 percent of its investment assets in any one business.

4. Establish goals for using its investment assets directly or indirectly to promote employee ownership of businesses in which it invests or employee participation in the governance and management of the businesses in which it invests.

5. Maintain a reserve fund that contains at least 15 percent of its investment assets.

The bill creates an individual income tax deduction for 50 percent of any amount that is contributed to the Badger Fund corporation. The deduction may be claimed for a taxable year that begins after December 31, 2003.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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71.05 (6) (b) 34. For taxable years beginning after December 31, 2003, 50 percent of any amount that is contributed to the Badger Fund corporation under s. 560.29.

SECTION 3. 560.29 of the statutes is created to read:

560.29 Badger Fund. (1) In this section:

(a) "Committee" means the special committee created under sub. (2).

6. Annually submit a report to the department regarding the investments made by the corporation.

7. Repay the grant amount in the manner determined by the department.

BILL

1 (b) "Corporation" means the Badger Fund.

2 (c) "Employer" means a person engaging in any activity, enterprise, or business
3 in this state employing any individuals on a permanent basis. "Employer" includes
4 the state and any office, department, independent agency, authority, institution,
5 association, society, or other body in state government created or authorized to be
6 created by the constitution or any law, including the legislature and the courts.

7 (d) "Labor organization" has the meaning given in s. 5.02 (8m).

8 (e) "Qualified business" means a business that employs at least 51 percent of
9 its employees in this state.

10 (2) (a) There is created a special committee, consisting of the following
11 members who shall be nominated by the governor, and with the advice and consent
12 of the senate appointed, for terms ending on the day on which the committee ceases
13 to exist:

14 1. Two members who represent labor organizations.

15 2. Two members who represent pension funds of labor organizations.

16 3. One member who has experience in the field of economic development.

17 4. Two members who represent the business or financial communities.

18 5. One member who has experience in the field of environmental protection.

19 6. One member who represents the public.

20 (b) The governor shall seek to appoint members from different regions of the
21 state who have demonstrated an ability to work in a cooperative and collaborative
22 manner with individuals of diverse interests.

23 (c) All members of the committee shall be residents of this state at the time of
24 appointment and at the time of performing any duties required of the committee.

BILL

SECTION 3

(d) Five members shall constitute a quorum for the purpose of performing any duties required of the committee.

(e) The committee may request the services of any state agency to assist the committee in performing its duties.

(f) The committee shall submit any recommendations for additional legislation to further the purposes of promoting and maintaining capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of qualified businesses by residents of this state, including employee ownership of qualified businesses, to the governor and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(g) After the committee has organized the corporation and submitted any recommendations under par. (f), the committee ceases to exist.

(3) (a) ^{no later than January 1, 2005} The committee shall organize a corporation under ch. 180 to be called the Badger Fund. The corporation shall make investments in qualified businesses for the purposes of earning income and promoting and maintaining capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of qualified businesses by residents of this state, including employee ownership of qualified businesses. The corporation shall give preference to qualified businesses ~~that are economically viable and~~ that are seeking equity capital for expansion, modernization of equipment, or upgrading of employee skills or facing an ownership transition due to an owner who is retiring without an ownership succession plan. The corporation shall also provide investment capital and other financial assistance and services to qualified businesses to assist qualified businesses in creating, maintaining, and protecting jobs in this state.

as certified by the
department of commerce

BILL

1

members of the
(b) 1. The committee shall ~~designate in the articles of incorporation~~ *become* the initial members of the board of directors of the corporation.

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2. Unless otherwise prohibited by law, the committee shall include in the articles of incorporation, with respect to the investment policies, asset valuations, shareholder classes and provisions, and shareholder voting rights of the corporation, investment policies, asset valuations, shareholder classes and provisions, and shareholder voting rights that are similar to those of the Crocus Investment Fund of Manitoba, Canada.

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11

12

(4) From the appropriation under s. 20.143 (1) (dm), the department shall make a onetime grant of \$3,000,000 to the corporation, if the corporation applies for the grant, for start-up capital and reasonable administrative expenses of the corporation.

13

14

(5) As a condition of receiving the grant under sub. (4), the corporation shall do all of the following:

15

16

(a) Establish investment policies and criteria with respect to all of the following:

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1. The creation, retention, and protection of employment in this state.
2. Employment practices, workplace safety, environmental suitability, and other matters considered appropriate by the corporation.

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(b) Invest not less than 60 percent of its investment assets in qualified businesses, either in equity interests of the qualified businesses or in debt obligations of the qualified businesses.

23

24

(c) Invest not more than 20 percent of its investment assets in any one qualified business.

3. *Any person having a financial interest in a qualified business or in an investment under this section may not be a member of the corporation's board of directors; and any member of the board of directors who acquires such an interest shall vacate his or her membership.*

BILL

(d) Use its best efforts to ensure that a majority of its investment assets directly or indirectly promote employee ownership of qualified businesses or employee participation in the governance and management of the qualified businesses.

(e) Maintain a reserve fund that contains at least 15 percent of its investment assets.

(7) The assets and liabilities of the corporation shall be separate from all other assets and liabilities of the state, of all political subdivisions of the state, and of the department. Neither the state, any political subdivision of the state, nor the department guarantees any obligation of or has any obligation to the corporation. Neither the state, any political subdivision of the state, nor the department is liable for any debt or liability of the corporation.

(END)

*by the end of each fiscal year
of the corporation*

¶ (F) ² Annually submit a report to the department ^{describes} that describes the investments made by the corporation under sub(3) in the previous fiscal year and that provides any information that the department ^{considers} necessary to review the investment program created under this section.

corporation

amount of the

¶ (g) Repay the grant to the department in the manner prescribed by the department.

Kreye, Joseph

3890

From: Kremer, Joe
Sent: Monday, February 23, 2004 12:05 PM
To: Kreye, Joseph
Subject: Badger Fund

Joe,

Attached are modifications to tighten up the definition of a qualified business and the certification by commerce.

Please call with any questions.

Best,

Joe



Badger Fund -
mods3.doc

Joe Kremer
Office of Representative Jim Kreuser
Assembly Democratic Leader
201 West - State Capitol
(608) 266-5504

Badger Fund, Mods 3

Pg 3, Line 11: add "...and has been certified by the department under 3(b)."

Pg 4, Line 17: remove "as certified by the Department of Commerce"

Pg 5, Line 3: Change (b) to (c)

Add (b) "The Department shall certify a business to be eligible for investment if all of the following apply:

1. The business submits an application to the department containing information required by the department;
2. The business has its principal place of business in Wisconsin;
3. The department determines that the business is an established and functioning business with a need for financial investment ;
and
4. The business meets any other criteria determined by the department to be necessary to ensure that a business receiving certification is capable of utilizing investments to achieve the goals of the Badger Fund.

designated recipient named above. This transmission may be an attorney-client communication, and as such is privileged and confidential. If the receiver of this transmission is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3890/3
JK&MES:cmh&wlj:rs

2003 BILL

RM not R

Today, of course

2-23-04

1 **AN ACT** ^{Regen} ~~to create~~ 20.143 (1) (dm), 71.05 (6) (b) 34. and 560.29 of the statutes;
2 **relating to:** requiring the creation of a corporation to make investments in
3 certain businesses located in this state, providing a grant to the corporation,
4 creating an individual income tax deduction for contributions to the
5 corporation, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a special committee that is required to organize a business corporation to be called the Badger Fund. The corporation must make investments in certain businesses in this state to earn income and promote and maintain capital retention and economic stability in this state, business continuity, job retention and creation, and the ownership of these businesses by residents of this state, including employee ownership of the businesses. The corporation must also provide investment capital and other financial assistance and services to the businesses to assist them in creating, maintaining, and protecting jobs in this state.

Under the bill, the Badger Fund must invest in businesses that have a majority of their employees in this state. The Badger Fund must give priority to businesses that are seeking equity capital for expansion, modernization of equipment, or upgrading the employee skills or facing an ownership transition due to an owner who is retiring with no business ownership succession plan.

Under the bill, the Department of Commerce (department) must give the Badger Fund a \$3,000,000 grant, if the corporation applies for the grant, for start-up

BILL

capital and reasonable administrative expenses. As a condition of receiving the grant, the corporation must do or agree to do all of the following:

1. Establish investment policies and criteria with respect to the creation, retention, and protection of employment in this state and employment practices, workplace safety, environmental suitability, and other matters considered appropriate by the corporation.

2. Invest not less than 60 percent of its investment assets in businesses, either in equity interests of the businesses or in debt obligations of the businesses.

3. Invest not more than 20 percent of its investment assets in any one business.

4. Establish goals for using its investment assets directly or indirectly to promote employee ownership of businesses in which it invests or employee participation in the governance and management of the businesses in which it invests.

5. Maintain a reserve fund that contains at least 15 percent of its investment assets.

6. Annually submit a report to the department regarding the investments made by the corporation.

7. Repay the grant amount in the manner determined by the department.

The bill creates an individual income tax deduction for 50 percent of any amount that is contributed to the Badger Fund corporation. The deduction may be claimed for a taxable year that begins after December 31, 2003.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.143 (1) (dm) of the statutes is created to read:

2 20.143 (1) (dm) *Grant to Badger Fund.* A sum sufficient not to exceed
3 \$3,000,000 for the purpose of paying the grant specified in s. 560.29 (4).

4 **SECTION 2.** 71.05 (6) (b) 34. of the statutes is created to read:

5 71.05 (6) (b) 34. For taxable years beginning after December 31, 2003, 50
6 percent of any amount that is contributed to the Badger Fund corporation under s.
7 560.29.

8 **SECTION 3.** 560.29 of the statutes is created to read:

BILL

1 **560.29 Badger Fund.** (1) In this section:

2 (a) "Committee" means the special committee created under sub. (2).

3 (b) "Corporation" means the Badger Fund.

4 (c) "Employer" means a person engaging in any activity, enterprise, or business
5 in this state employing any individuals on a permanent basis. "Employer" includes
6 the state and any office, department, independent agency, authority, institution,
7 association, society, or other body in state government created or authorized to be
8 created by the constitution or any law, including the legislature and the courts.

9 (d) "Labor organization" has the meaning given in s. 5.02 (8m).

10 (e) "Qualified business" means a business that ~~employs at least 51 percent of~~

11

~~its employees in this state.~~

*satisfies all of the following requirements, as
certified by the department.* INSERT 3-11 ✓

12 (2) (a) There is created a special committee, consisting of the following
13 members who shall be nominated by the governor, and with the advice and consent
14 of the senate appointed, for terms ending on the day on which the committee ceases
15 to exist:

16 1. Two members who represent labor organizations.

17 2. Two members who represent pension funds of labor organizations.

18 3. One member who has experience in the field of economic development.

19 4. Two members who represent the business or financial communities.

20 5. One member who has experience in the field of environmental protection.

21 6. One member who represents the public.

22 (b) The governor shall seek to appoint members from different regions of the
23 state who have demonstrated an ability to work in a cooperative and collaborative
24 manner with individuals of diverse interests.

BILL

1 (c) All members of the committee shall be residents of this state at the time of
2 appointment and at the time of performing any duties required of the committee.

3 (d) Five members shall constitute a quorum for the purpose of performing any
4 duties required of the committee.

5 (e) The committee may request the services of any state agency to assist the
6 committee in performing its duties.

7 (f) The committee shall submit any recommendations for additional legislation
8 to further the purposes of promoting and maintaining capital retention and economic
9 stability in this state, business continuity, job retention and creation, and the
10 ownership of qualified businesses by residents of this state, including employee
11 ownership of qualified businesses, to the governor and to the chief clerk of each house
12 of the legislature, for distribution to the legislature under s. 13.172 (2).

13 (g) After the committee has organized the corporation and submitted any
14 recommendations under par. (f), the committee ceases to exist.

15 (3) (a) No later than January 1, 2005, the committee shall organize a
16 corporation under ch. 180 to be called the Badger Fund. The corporation shall make
17 investments in qualified businesses ~~as certified by the department of commerce~~ for
18 the purposes of earning income and promoting and maintaining capital retention
19 and economic stability in this state, business continuity, job retention and creation,
20 and the ownership of qualified businesses by residents of this state, including
21 employee ownership of qualified businesses. The corporation shall give preference
22 to qualified businesses that are seeking equity capital for expansion, modernization
23 of equipment, or upgrading of employee skills or facing an ownership transition due
24 to an owner who is retiring without an ownership succession plan. The corporation
25 shall also provide investment capital and other financial assistance and services to

BILL

1 qualified businesses to assist qualified businesses in creating, maintaining, and
2 protecting jobs in this state.

3 (b) 1. The members of the committee shall become the initial members of the
4 board of directors of the corporation.

5 2. Unless otherwise prohibited by law, the committee shall include in the
6 articles of incorporation, with respect to the investment policies, asset valuations,
7 shareholder classes and provisions, and shareholder voting rights of the corporation,
8 investment policies, asset valuations, shareholder classes and provisions, and
9 shareholder voting rights that are similar to those of the Crocus Investment Fund
10 of Manitoba, Canada.

11 3. Any person having a financial interest in a qualified business or in an
12 investment under this section may not be a member of the corporation's board of
13 directors, and any member of the board of directors who acquires such an interest
14 shall vacate his or her membership.

15 (4) From the appropriation under s. 20.143 (1) (dm), the department shall
16 make a onetime grant of \$3,000,000 to the corporation, if the corporation applies for
17 the grant, for start-up capital and reasonable administrative expenses of the
18 corporation.

19 (5) As a condition of receiving the grant under sub. (4), the corporation shall
20 do all of the following:

21 (a) Establish investment policies and criteria with respect to all of the
22 following:

23 1. The creation, retention, and protection of employment in this state.

24 2. Employment practices, workplace safety, environmental suitability, and
25 other matters considered appropriate by the corporation.

BILL

(b) Invest not less than 60 percent of its investment assets in qualified businesses, either in equity interests of the qualified businesses or in debt obligations of the qualified businesses.

(c) Invest not more than 20 percent of its investment assets in any one qualified business.

(d) Use its best efforts to ensure that a majority of its investment assets directly or indirectly promote employee ownership of qualified businesses or employee participation in the governance and management of the qualified businesses.

(e) Maintain a reserve fund that contains at least 15 percent of its investment assets.

(f) Annually submit a report to the department by the end of each fiscal year of the corporation that describes the investments made by the corporation under sub. (3) in the corporation's previous fiscal year and that provides any information that the department considers necessary to review the investment program created under this section.

(g) Repay the amount of the grant to the department in the manner prescribed by the department.

(7) The assets and liabilities of the corporation shall be separate from all other assets and liabilities of the state, of all political subdivisions of the state, and of the department. Neither the state, any political subdivision of the state, nor the department guarantees any obligation of or has any obligation to the corporation. Neither the state, any political subdivision of the state, nor the department is liable for any debt or liability of the corporation.

(END)

3890/4
JK

Insert 3-11

§ 10 It employs at least 51 percent of its employees in this state.

§ 20 It ^{submits} an application to the department in the ^{form} and manner ^{prescribed} by the department.

§ 30 It has its principal place of business in this state.

§ 40 It is an established business that needs financial investment.

§ 50 It submits any other information, or meets any other criteria, that the department ^{considers} necessary to ensure that the business is capable of using financial investments for ^{consistent} purposes that are consistent with this section.

2003 DRAFTING REQUEST

Bill

Received: 12/16/2003

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: joe

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: mshovers

Subject: Econ. Development - bus. dev.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Badger Fund

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan	wjackson					State
	12/16/2003	12/26/2003					Tax
	jkreye						
	12/16/2003						
	mshovers						
	12/24/2003						

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			rschluet 12/29/2003	_____ _____	sbasford 12/29/2003		State Tax
/2	jkreye 01/29/2004	wjackson 02/03/2004 wjackson 02/11/2004	pgreensl 02/11/2004	_____ _____ _____ _____	lemery 02/11/2004		State Tax
/3	jkreye 02/17/2004	wjackson 02/17/2004 wjackson 02/20/2004	rschluet 02/20/2004	_____ _____ _____ _____	sbasford 02/20/2004		

FE Sent For:

/4 WLj 2/23

<END>

2003 DRAFTING REQUEST**Bill**

Received: 12/16/2003

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Wanted: Soon

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: joe

This file may be shown to any legislator: NO

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Addl. Drafters: mshovers

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Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Badger Fund

Instructions:

See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	rmarchan 12/16/2003	wjackson 12/26/2003					State
	jkreye 12/16/2003						Tax
	mshovers 12/24/2003						

13 WJ 2/20

20

4

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			rschluet 12/29/2003	_____ _____	sbasford 12/29/2003		State Tax
/2	jkreye 01/29/2004	wjackson 02/03/2004 wjackson 02/11/2004	pgreensl 02/11/2004	_____ _____ _____ _____	lemery 02/11/2004		

FE Sent For:

<END>

Northrop, Lori

From: Kremer, Joe
Sent: Monday, March 01, 2004 2:50 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3890/4 Topic: Badger Fund

It has been requested by <Kremer, Joe> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3890/4 Topic: Badger Fund



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

March 25, 2004

MEMORANDUM

To: Representative Pope-Roberts

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263
Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **AB-970** (LRB 03-3890/4)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 16, 2004

TO: Joseph Kreye
Mark Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 970: Badger Fund

Section 71.05 (6)(b)34 provides that the subtraction applies for taxable years beginning after December 31, 2003. This would be a problem if the bill were enacted late in 2004, after the 2004 forms had been sent to the printer. It would be better if there were an initial applicability date that provided that if the bill were enacted after July 31, it would first apply to taxable years beginning on January 1 after the date of enactment.

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.